



HARMONIZED SYSTEM  
REVIEW SUB-COMMITTEE

-  
27<sup>th</sup> Session  
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NR0347E1  
(+ Annex)

O. Eng.

Brussels, 10 January 2003.

POSSIBLE AMENDMENTS TO THE EXPLANATORY NOTES  
TO CORRECT CERTAIN TEXTS AND TO ALIGN THE ENGLISH AND  
FRENCH VERSIONS (PROPOSAL BY THE SECRETARIAT)

(Item III.A.8 on Agenda)

Reference documents :

NR0265E3, Annexes C/9 and F/5 (RSC/25 – Report)  
NR0324E1 (RSC/26)

NR0332E3, Annexes D/6 and F/18 (RSC/26 – Report)

I. BACKGROUND

1. At its 26<sup>th</sup> Session, the Review Sub-Committee discussed proposed amendments to the Explanatory Notes (presented in Annex II to Doc. NR0324E1), suggested by the Secretariat with a view to aligning the English and French versions.
2. With respect to these proposed amendments, one delegate expressed doubts whether they would indeed clarify or improve the texts concerned. He indicated that there had been no practical problems with these texts and, therefore, preferred the status quo. Another delegate supported this view.
3. Other delegates indicated that they could accept the proposed amendments, although one of them indicated that his administration had some doubts concerning certain amendments, such as, for example, the amendment proposed for page 1035 of the Explanatory Notes to heading 59.06. Following a suggestion from the floor, the Chairperson proposed that the Sub-Committee discuss the proposals again at its next session, on the basis of a new document to be prepared by the Secretariat, which would include a clarification or justification of the proposed amendments. He requested interested administrations to submit their comments on the basis of that new document before the start of the next session. The proposed amendments were placed in square brackets.

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## II. SECRETARIAT COMMENTS

4. Following the instructions of the Sub-Committee, the Secretariat has prepared a new document, clarifying the amendments proposed by the Secretariat in Annex II to Doc. NR0324E1.

5. To facilitate discussions in the Sub-Committee, the Secretariat has reproduced hereafter paragraphs 3 to 6 of Doc. NR0324E1, which provide information vis-à-vis the semantics involved.

“ **Other similar**”

3. The attributive adjunct “other similar” (French : “autres [ . . . ] similaires”) is used in two places in the Nomenclature, i.e., in heading 44.08 and in subheading 9504.30. The combination of the two adjectives in one and the same expression is in the view of the Secretariat incorrect, since the word “similar” implies that the article or commodity at issue is of the same kind or appearance, without being identical as the listed commodity or commodities, whereas the word “other” is described as “used to refer to a person or thing that is different from one already mentioned or known” (*Concise Oxford Dictionary*). From this description, it appears that the combination of the two words could even be considered as contradicting, since a commodity which is “other” (= different) cannot be at the same time “similar”.

4. The same expression (i.e., “other similar”) is found in a number of places in the Explanatory Notes, although the relevant legal texts may refer to “similar articles”, rather than to “other similar articles”. In addition, the French version may also use the term “analogue” in stead of the word “similaire”.

5. The Secretariat suggests replacing the expression “other similar” (French : “autres [ . . . ] similaires”) by “similar” (French : “similaire(s)”) in the texts of heading 44.08 and of subheading 9504.30, and in the relevant Explanatory Notes. To that effect, the Secretariat has prepared draft amendments of the legal texts and of the relevant Explanatory Notes, which are set out in Annex I to this document.

6. With respect to the use of the expression at issue in other places in the Explanatory Notes, the Secretariat suggests replacing the expression “other similar” by “similar” or by “other”, depending on the situation. These proposed draft amendments are reproduced in Annex II to this document.”

6. The Sub-Committee adopted unanimously the amendments proposed for heading 44.08 and subheading 9504.30. With respect to the amendments proposed for the Explanatory Notes which were included in Annex II to Doc. NR0324E1, the Secretariat provides the following information vis-à-vis the individual proposals.

Page	Section / Chapter / Heading	English or French version	Observations
9	Chapter 1. General. Exclusion (3).	English	Non-alignment with the text of heading 95.08, and with the French version.
13	Heading 01.06. Item D).	French	Semantics.
13	Heading 01.06. Exclusion.	English	Non-alignment with text of heading 95.08, and with the French version.
201	Heading 23.09. Item (I). First paragraph.	English and French	Possible restriction of legal provisions.
218	Heading 25.15. Fourth paragraph.	English and French	Non-alignment with the heading text.
568	Heading 30.02. Item D).	French	Non-alignment with the heading text.
656	Heading 36.06. Item (II) (c).	English	Non-alignment with Note 2 (a) to Chapter 36.

Page	Section / Chapter / Heading	English or French version	Observations
744	Heading 39.26. Item 4).	French	Non-alignment with the English text.
820	Heading 44.18. First paragraph.	English and French	Semantics.
909	Heading 49.11. Item (6).	English and French	Semantics.
989	Heading 56.02. Exclusion (h).	English and French	Semantics. Possible restriction of the legal provisions of heading 59.11.
1019	Heading 58.05. Penultimate paragraph.	French	Possible restriction of the legal provisions of Note 7 to Section XI.
1035	Heading 59.06. Exclusion (g).	English and French	Semantics. Possible restriction of the legal provisions of heading 59.11.
1037	Heading 59.07. Exclusion (a).	English	Possible restriction of the legal provisions of heading 30.05; non-alignment with the French text.
1119	Heading 67.02. Exclusion b).	French	Non-alignment with Note 3 b), and with the English text.
1135	Heading 68.13. Exclusion b).	French	Non-alignment with the English text.
1149	Heading 69.06. Exclusion (b).	English	Non-alignment with the French text.
1151	Heading 69.12. Exclusion b).	French	Non-alignment with text of heading 69.10, and with the English text.
1280	Heading 73.26. Item 1).	French	Semantics. Non-alignment with the English text.
1293	Heading 74.10. Second paragraph.	French	Non-alignment with the heading text and with the English text.
1293	Heading 74.10. Exclusion a).	French	Semantics. Non-alignment with the Explanatory Note to heading 32.12 (part B, item 1)), and with the English text.
1374	Heading 83.06. Item A.	French	Non-alignment with the heading text.
1376	Heading 83.06. Exclusion d).	French	Non-alignment with text of heading 83.02.
1379	Heading 83.09. Item 9).	French	Semantics. Non-alignment with the English text.
1379	Heading 83.10. First paragraph.	English and French	Non-alignment with the heading text.
1384	Section XVI. Item (l). Exclusion (c).	English	Semantics. Non-alignment with the French text.
1385	Section XVI. Item II. 4).	French	Non-alignment with text of heading 84.81.
1435	Heading 84.19. Exclusion q).	French	Non-alignment with text of heading 85.16.
1472	Heading 84.30. Exclusion c).	French	Possible restriction of the scope of heading 84.67.
1560	Heading 84.65. Second paragraph (exclusions).	English and French	Semantics and clarification of the text.
1600	Heading 84.79. Item (D) (4).	English	Semantics. Non-alignment with the French text.
1602	Heading 84.79. Item 12).	French	Semantics. Non-alignment with the English text.
1633	Heading 85.09. Item (A) (3).	English	Semantics. Non-alignment with the French text.
1665	Heading 85.23. Item 5).	French	Non-alignment with the heading text and with the English text.
1921	Heading 95.08. Exclusion (c).	English and French	Alignment on the provisionally adopted amendment to subheading 9504.30 <sup>1)</sup>
1927	Heading 96.02. Item B) 2°).	French	Non-alignment with the Explanatory Note to heading 25.30 (part B, title and item 1), second paragraph).
1942	Heading 96.17. Item (1).	English and French	Non-alignment with the heading text.

7. The draft amendments to the Explanatory Notes are set out in the Annex to this document.

<sup>1)</sup> The Sub-Committee may wish to include this proposed amendment within the Article 16 procedure amendments, rather than under the corrigendum procedure, given the relation with the amended wording of subheading 9504.30 and the relevant part in the Explanatory Note to heading 95.04.

III. CONCLUSION

8. The Sub-Committee is invited to examine the proposed draft amendments to the Explanatory Notes suggested by the Secretariat, as set out in the Annex to this document.

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